

REMARKS

These remarks are in response to the Office Action mailed January 28, 2010. No claims have been amended and thus no further search is required.

PRIORITY

Applicant respectfully submits that the provisional application filed in 2002 contemplates and disclosures NT69L and contemplates that neurotensin mimetics play an inhibitory role in serotonin 2A and/or alpha 1 receptor mediated neural function (see, e.g., pages 4-6 of the provisional application).

REJECTION UNDER 35 U.S.C. §103

Claims 15-16, 18, 22, 24 and 26 stand rejected under 35 U.S.C. §103 as allegedly unpatentable over Shilling et al., (Behav. Brain Res. 143:7-14, July 2003) in view of Perry et al. (Biol. Psychiat. 50:418-424, 2001). Applicant respectfully traverses this rejection.

Shilling et al. (the primary reference) is available as a publication approximately 5 months prior to Applicant's PCT application, which forms a priority documents for the purposes of the present application. Accordingly, the publication is available under 35 U.S.C. §103 via 102(a) criteria. For purposes of 35 U.S.C. §102(a), a publication is available only if it is "by another".

Attached hereto is a "Katz" Declaration providing evidence that the Shilling et al. publication is not "by another" and thus is not available as a publication for purposes of 35 U.S.C. §103. Accordingly, the primary reference is unavailable under 35 U.S.C. §103.

Perry et al. do not teach or suggest the claimed invention. Perry et al. do not teach or suggest each and every element of Applicant's claimed invention. Thus a *prima facie* case of obviousness is lacking. Accordingly, the rejection may be withdrawn.

Claims 15-17, 24 and 25 stand rejected under 35 U.S.C. §103 as allegedly unpatentable over Shilling et al. and Perry et al. in view of Gully et al. (Therapie 50:

5-7, 1995 – abstract) and Greibel et al. (Neurosc Behav Rev 25:619-626, 2001).
Applicant respectfully traverses this rejection.

As mentioned above, Shilling et al. is not available as a reference for purposes of 35 U.S.C. §102 and 103. Perry et al., Gully et al. and Greibel et al. fail to teach or suggest each and every element of Applicant's claimed invention. Thus, a prima facie case of obviousness has not been provided. Accordingly, the rejection may be withdrawn.

For, at least, the foregoing reasons the claims submitted herewith are non-obvious over the references either alone or in combination. No claims have been amended and thus no further search is needed. Furthermore, the cited references have been addressed and the claims are free of the prior art.

For at least the foregoing, the Applicant submits that the claimed invention is patentable and request reconsideration and notice of such allowable subject matter.

The Director is authorized to charge any required fee or credit any overpayment to Deposit Account Number 50-4586, please reference the attorney docket number above.

The Examiner is invited to contact the undersigned at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,
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